

**Introduced by Senator Kuehl**

February 23, 2007

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An act to amend Section 19602 of, to add Sections 17044.1, 17044.2, 17044.3, and 19602.6 to, and to add Part 10.1 (commencing with Section 18352) to Division 2 of, the Revenue and Taxation Code, and to add Division 11 (commencing with Section 18200) to the Unemployment Insurance Code, relating to taxation, and making an appropriation therefor.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1014, as introduced, Kuehl. Taxation: single-payer health care coverage tax.

The Personal Income Tax Law, which is administered by the Franchise Tax Board, imposes taxes upon the taxable income of individual taxpayers, at specified rates, based on the amount of the taxpayer's taxable income and alternative minimum taxable income.

This bill, for taxable years beginning on or after January 1, 2008, would impose, at unspecified rates, an additional tax on the taxpayer's taxable income that exceeds \$200,000, a tax on self-employment income, as defined, of an individual taxpayer and a tax on nonwage income, as defined, of a taxpayer. This bill would require all revenues received by the Franchise Tax Board from those taxes be deposited in the Health Insurance Fund, as provided.

This bill would also impose a health care coverage tax, at an unspecified rate, on the wages of an employee to be paid by both the employee and his or her employer, as provided. This bill would require that all revenues derived from the payroll health care coverage taxes be transmitted to the Treasurer to be deposited in the Health Insurance Fund. This bill would make an appropriation by requiring that all

moneys deposited in the Health Insurance Fund be continuously appropriated to the California Health Insurance Agency for purposes of administering health care benefits under the California Health Insurance System, as defined.

This bill would require an employer, as defined, to withhold and remit to the Employment Development Department, for each payroll period, the amount of payroll health care coverage taxes, as provided, reasonably estimated to be due, as prescribed by the Franchise Tax Board, and to file a withholding report in a form prescribed by the Employment Development Department.

This bill would also require the Franchise Tax Board and the Employment Development Department to promulgate rules and regulations to implement the provisions imposing all those additional taxes.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17044.1 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17044.1. (a) For each taxable year beginning on or after
- 4 January 1, 2008, in addition to any other taxes imposed by this
- 5 part, an additional tax shall be imposed on the portion of a
- 6 taxpayer's taxable income that exceeds two hundred thousand
- 7 dollars (\$200,000), at the following rates:
- 8 (1) \_\_\_ percent on that portion of a taxpayer's taxable income
- 9 that exceeds two hundred thousand dollars (\$200,000) but is not
- 10 over one million dollars (\$1,000,000).
- 11 (2) \_\_\_ percent on that portion of a taxpayer's taxable income
- 12 that exceeds one million dollars (\$1,000,000).
- 13 (b) For purposes of applying Part 10.2 (commencing with
- 14 Section 18401) of Division 2, the tax imposed under this section
- 15 shall be treated as if imposed under Section 17041.
- 16 (c) The following provisions do not apply to the tax imposed
- 17 by this section:

1 (1) The provisions of Section 17039, relating to the allowance  
2 of credits.

3 (2) The provisions of Section 17041, relating to filing status  
4 and recomputation of the income tax brackets.

5 (3) The provisions of Section 17045, relating to joint returns.

6 SEC. 2. Section 17044.2 is added to the Revenue and Taxation  
7 Code, to read:

8 17044.2. (a) For each taxable year beginning on or after  
9 January 1, 2008, in addition to any other taxes imposed by this  
10 part, there shall be imposed a tax on the self-employment income  
11 of every individual taxpayer in an amount equal to \_\_\_\_ percent  
12 of the amount of that taxpayer's self-employment income for that  
13 taxable year.

14 (b) For purposes of this section, all of the following definitions  
15 apply:

16 (1) (A) "Self-employment income" means the net earnings  
17 from self-employment derived by an individual during any taxable  
18 year, except as otherwise provided.

19 (B) The term "self-employment income" does not include the  
20 amount of net earnings for the taxable year that is less than seven  
21 thousand dollars (\$7,000) or more than two hundred thousand  
22 dollars (\$200,000).

23 (2) "Net earnings" means net earnings from self-employment,  
24 as defined in Section 1402(a) of the Internal Revenue Code.

25 (c) For purposes of applying Part 10.2 (commencing with  
26 Section 18401) of Division 2, the tax imposed under this section  
27 shall be treated as if imposed under Section 17041.

28 (d) The Franchise Tax Board shall prescribe rules and  
29 regulations to implement the provisions of this section.

30 SEC. 3. Section 17044.3 is added to the Revenue and Taxation  
31 Code, to read:

32 17044.3. (a) For each taxable year beginning on or after  
33 January 1, 2008, in addition to any other taxes, there shall be  
34 imposed on nonwage income of every individual taxpayer a tax  
35 in an amount equal to \_\_\_\_ percent of the amount of the nonwage  
36 income of that individual for that taxable year.

37 (b) (1) For purposes of this section, "nonwage income" means  
38 the amount of adjusted gross income, as defined in Section 62 of  
39 the Internal Revenue Code, of an individual minus net earnings,

1 if any, as defined in Section 17044.2, minus the amount of wages,  
2 if any, as defined in Section 18354, received by the individual.

3 (2) For purposes of this section, the term “nonwage income”  
4 does not include any amount in excess of two hundred thousand  
5 dollars (\$200,000).

6 (c) For purposes of applying Part 10.2 (commencing with  
7 Section 18401) of Division 2, the tax imposed under this section  
8 shall be treated as if imposed under Section 17041.

9 (d) The Franchise Tax Board shall prescribe rules and  
10 regulations to implement the provisions of this section.

11 SEC. 4. Part 10.1 (commencing with Section 18352) is added  
12 to Division 2 of the Revenue and Taxation Code, to read:

13  
14 PART 10.1. CALIFORNIA HEALTH INSURANCE PREMIUM

15  
16 CHAPTER 1. GENERAL PROVISIONS

17  
18 18352. (a) This part is known and may be cited as the  
19 “California Health Insurance System Funding Law.”

20 (b) This part creates a health care coverage premium paid  
21 through the imposition of taxes on wages.

22 18353. Except where the context otherwise requires, the  
23 definitions given in this chapter govern the construction of this  
24 part.

25  
26 CHAPTER 2. ESTABLISHMENT OF THE HEALTH CARE COVERAGE  
27 PREMIUM

28  
29 18354. (a) In addition to the taxes imposed pursuant to Part  
30 10 (commencing with Section 17001), for each taxable year  
31 beginning on or after January 1, 2008, there shall be imposed on  
32 the income of every individual a tax equal to \_\_\_\_ percent of the  
33 amount of wages received by the individual with respect to  
34 employment for the taxable year.

35 (b) For purposes of this section, all of the following definitions  
36 apply:

37 (1) “Employment” means employment as defined in Article 1  
38 (commencing with Section 601) and Article 2 (commencing with  
39 Section 629) of Chapter 3 of Part 1 of Division 1 of the  
40 Unemployment Insurance Code, except as otherwise provided.

(2) “Employer” means an employer as defined in Article 3 (commencing with Section 675) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

(3) (A) “Wages” means wages as defined in Article 2 (commencing with Section 926) of Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, except as otherwise provided.

(B) The term “wages” does not include either of the following amounts:

(i) The first seven thousand dollars (\$7,000) of remuneration received by an individual from an employer during any taxable year, with respect to employment.

(ii) Remuneration in excess of two hundred thousand dollars (\$200,000) paid to an individual by an employer during any taxable year, with respect to employment.

(C) Section 930 of the Unemployment Insurance Code does not apply to the definition of “wages.”

18355. (a) In addition to other taxes imposed under the Unemployment Insurance Code, for each calendar year beginning on or after January 1, 2008, there shall be imposed on every employer an excise tax in an amount equal to \_\_\_\_ percent of the wages paid by the employer to each employee, with respect to employment, during a taxable year.

(b) For purposes of this section, all of the following definitions apply:

(1) “Employment” means employment as defined in Article 1 (commencing with Section 601) and Article 2 (commencing with Section 629) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, except as otherwise provided.

(2) “Employer” means an employer as defined in Article 3 (commencing with Section 675) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

(3) “Employee” means an employee as defined in Article 1.5 (commencing with Section 621) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

(4) (A) “Wages” means wages as defined in Article 2 (commencing with Section 926) of Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, except as otherwise provided.

1 (B) The term "wages" does not include remuneration in excess  
2 of two hundred thousand dollars (\$200,000) paid to an individual  
3 by an employer during any calendar year, with respect to  
4 employment.

5 (C) Section 930 of the Unemployment Insurance Code does not  
6 apply to the definition of "wages."

7 18356. The Franchise Tax Board and the Employment  
8 Development Department shall prescribe rules and regulations to  
9 implement the provisions of this article.

10  
11 CHAPTER 3. DISPOSITION OF PROCEEDS  
12

13 18357. All amounts required to be paid to the state under  
14 Chapter 2 of this part shall be paid to the Employment  
15 Development Department in the form of remittances payable to  
16 the Employment Development Department, as provided in Division  
17 11 of the Unemployment Insurance Code. The Employment  
18 Development Department shall transmit the payments to the  
19 Treasurer to be deposited in the Health Insurance Fund.

20 18358. Notwithstanding Section 13340 of the Government  
21 Code, all moneys deposited in the Health Insurance Fund under  
22 this part shall be continuously appropriated, without regard to  
23 fiscal years, to the California Health Insurance Agency for purposes  
24 of administering health care benefits under the California Health  
25 Insurance System, as defined in Division 113 of the Health and  
26 Safety Code.

27  
28 CHAPTER 4. ADMINISTRATION  
29

30 18359. The Employment Development Department shall have  
31 the powers and duties to administer this part and may prescribe,  
32 adopt, and enforce rules and regulations relating to the  
33 administration and enforcement of this part.

34 SEC. 5. Section 19602 of the Revenue and Taxation Code is  
35 amended to read:

36 19602. Except for amounts collected or accrued under Sections  
37 17935, 17941, 17948, 19532, and 19561, ~~and~~ revenues deposited  
38 pursuant to Section 19602.5, *and revenues deposited pursuant to*  
39 *Section 19602.6*, all moneys and remittances received by the  
40 Franchise Tax Board as amounts imposed under Part 10

(commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SEC. 6. Section 19602.6 is added to the Revenue and Taxation Code, to read:

19602.6. (a) Notwithstanding Section 13340 of the Government Code, the revenues received by the Franchise Tax Board from additional taxes imposed under Sections 17044.1, 17044.2, and 17044.3 shall be deposited in the Health Insurance Fund, and shall be continuously appropriated, without regard to fiscal years, to the California Health Insurance Agency for purposes of administering health care benefits under the California Health Insurance System, as defined in Division 112 (commencing with Section 131000) of the Health and Safety Code.

(b) Based on the procedures set forth in Section 19602.5, the Franchise Tax Board, in consultation with the Legislative Analyst shall, by November 15, 2008, establish by regulation a transfer rate and a mechanism for adjustment that permits estimated revenues from the additional taxes imposed by Sections 17044.1, 17044.2, and 17044.3 to be transferred by the Controller to the Health Insurance Fund on a monthly basis, subject to an adjustment based on the procedures set forth in Section 19602.5 to account for any difference between estimated revenues and actual revenues.

SEC. 7. Division 11 (commencing with Section 18200) is added to the Unemployment Insurance Code, to read:

## DIVISION 11. WITHHOLDING OF HEALTH CARE COVERAGE PREMIUM

### CHAPTER 1. GENERAL PROVISIONS

18200. The department shall have the powers and duties necessary to administer the reporting, collection, refunding to the employer, and enforcement of taxes required to be withheld by employers pursuant to Section 18203, except as otherwise provided by this division.

18201. The following provisions of this code shall apply to any amount required to be deducted, reported, and paid to the department under this division:

1 (a) Sections 301, 305, 306, 310, 311, 312, 317, and 318, relating  
2 to general administrative powers of the department.

3 (b) Sections 403 to 413, inclusive, Section 1336, and Chapter  
4 8 (commencing with Section 1951) of Part 1 of Division 1, relating  
5 to appeals and hearing procedures.

6 (c) Article 8 (commencing with Section 1126) of Chapter 4 of  
7 Part 1 of Division 1, relating to assessments.

8 (d) Article 9 (commencing with Section 1176), except Section  
9 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and  
10 overpayments.

11 (e) Article 10 (commencing with Section 1206) of Chapter 4 of  
12 Part 1 of Division 1, relating to notice.

13 (f) Article 11 (commencing with Section 1221) of Chapter 4 of  
14 Part 1 of Division 1, relating to administrative appellate review.

15 (g) Article 12 (commencing with Section 1241) of Chapter 4  
16 of Part 1 of Division 1, relating to judicial review.

17 (h) Chapter 7 (commencing with Section 1701) of Part 1 of  
18 Division 1, relating to collections.

19 (i) Chapter 10 (commencing with Section 2101) of Part 1 of  
20 Division 1, relating to violations.

21 18202. Except where the context otherwise requires, the  
22 definitions set forth in Division 6 of this code and Part 10  
23 (commencing with Section 17001), Part 10.1 (commencing with  
24 Section 18352) and Part 10.2 (commencing with Section 18401)  
25 of Division 2 of the Revenue and Taxation Code apply to this  
26 division.

27  
28 CHAPTER 2. WITHHOLDING AND PAYMENT OF PREMIUM  
29

30 18203. (a) Every employer who pays wages to a resident  
31 employee for services performed either within or without this state,  
32 or to a nonresident employee for services performed in this state,  
33 shall deduct and withhold from those wages, except as otherwise  
34 provided in this division, for each payroll period, the amount of  
35 taxes reasonably estimated to be due under Chapter 2 (commencing  
36 with Section 18354) of Part 10.1 of Division 2 of the Revenue and  
37 Taxation Code. The method of determining the amount to be  
38 withheld shall be prescribed by the Franchise Tax Board.

39 (b) The department upon request may permit the use of  
40 accounting machines to calculate the proper amount to be deducted

1 and withheld from wages, if the calculation produces an amount  
2 substantially equivalent to the amount of tax required to be  
3 withheld under subdivision (a).

4 18204. Every employer required to withhold any tax under  
5 Section 18203 shall for each calendar quarter, whether or not wages  
6 or payments are paid in the quarter, file a withholding report and  
7 a report of wages in a form prescribed by the department, and pay  
8 over the taxes so required to be withheld. The report of wages shall  
9 include individual amounts required to be withheld under Section  
10 18203. Except as otherwise provided, the employer shall file a  
11 withholding report and remit the total amount of the taxes withheld  
12 during the calendar quarter on or before the last day of the month  
13 following the close of the calendar quarter.

14 18205. The department shall promulgate rules and regulations  
15 to implement the provisions of this division.